

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ALFONSO PERCY PEW,)	1:16cv83
)	Electronic Filing
Plaintiff,)	
)	Judge David Stewart Cercone
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
MAJOR PAUL ENNIS, <i>et al.</i> ,)	
)	
Defendants.)	
)	
)	

MEMORANDUM ORDER

Plaintiff, Alfonso Percy Pew (“Plaintiff”), initiated this action on April 15, 2016, with the filing of a civil rights complaint and a motion for leave to proceed *in forma pauperis* (“IFP”). (ECF Nos. 1, 2.) On April 22, 2016, the case was assigned to United States Magistrate Judge Lisa Pupo Lenihan for review in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Rules of Court 72.C and 72.D.

On April 22, 2016, the Magistrate Judge issued a Report and Recommendation wherein she recommended Plaintiff’s IFP motion be denied in accordance with 28 U.S.C. § 1915(g). (ECF No. 4.) The Magistrate Judge determined that Plaintiff had incurred three or more “strikes,” and, therefore, pursuant to the dictates of 28 U.S.C. § 1915(g), he cannot proceed *in forma pauperis*. She also determined that Plaintiff had not met the threshold showing of imminent danger of serious physical injury in order to avail himself of the “imminent danger” exception to § 1915(g). It was therefore recommended that this action be dismissed without prejudice and reopened when Plaintiff paid the full \$400.00 filing fee. *Id.*

Plaintiff filed timely Objections to the Magistrate Judge's Report and Recommendation. (ECF No. 5.) In his Objections, Plaintiff states that he meets the imminent danger exception to 28 U.S.C. § 1915(g) because he is a mental health inmate and the defendants have placed him in a dangerous environment he calls a "gang unit". He claims that the inmates in this unit put his life in danger by setting fires and that the defendants have not taken action to dismantle the means to start the fires. For the reasons stated in the Magistrate Judge's Report and Recommendation, the Court finds that this does not rise to the level of imminent danger. Therefore, upon an independent review of the record and consideration of the Magistrate Judge's Report and Recommendation, ~~and~~ Objections thereto, the following Order is entered.

AND NOW, this 18 day of May, 2016,

IT IS HEREBY ORDERED that Plaintiff's IFP motion (ECF No. 2) is hereby denied in accordance with 28 U.S.C. § 1915(g).

IT IS FURTHER ORDERED that this case is dismissed without prejudice to Plaintiff's right to reopen it by paying the full \$400.00 filing fee.

IT IS FURTHER ORDERED that the Magistrate Judge's Report and Recommendation (ECF No. 4) is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Petitioner has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.



David Stewart Cercone
United States District Judge

cc: Honorable Lisa Pupo Lenihan
United States Magistrate Judge

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(*Via First Class Mail*)